Third countries whose nationals are subject to or exempt from a visa requirement (Visa Regulation)

2000/0030(CNS) - 19/10/2009

Council Regulation (EC) No 539/2001 of 15 March 2001, listing the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States (Annex 1 to the Regulation, the "negative list") and those whose nationals are exempt from that requirement (Annex II to the Regulation, the "positive list"), as amended by Council Regulation (EC) No 851/2005, is the basic instrument of our common visa policy, providing a reciprocity mechanism for cases where a third country on the positive list maintains or introduces a visa requirement for the citizens of one or more Member States.

The previous reports provided a description of the reciprocity mechanism and the state of play of non-reciprocity during the respective periods covered.

The notifications by Member States in the framework of the new reciprocity mechanism showed that by June 2005 13 third countries were notified with 75 cases in total. Following their accession to the European Union on 1 January 2007, Bulgaria and Romania notified seven third countries with which a situation of non-reciprocity was in place.

The 4th visa reciprocity report of July 2008 showed that a situation of non-reciprocity still existed with eight third countries from the positive list. The report was presented to the JHA Council on 24 July 2008 and was well received by Member States. Member States were generally optimistic in achieving full visa reciprocity.

The **present 5th reciprocity report** takes stock of the efforts made by the Commission since July 2008. As detailed below, full visa reciprocity has been achieved with three additional third countries while five third countries on the positive list continue to require visas from nationals of one or more Member States.

Conclusions: the Commission considers that since the last report of 23 July 2008, the new visa reciprocity mechanism has once more proved to be effective. Out of the eight third countries on the positive list which required visas from citizens of one or more Member States at the time of the previous report, only five third countries now continue to do so. Full visa reciprocity has been achieved with **Japan**, **Panama** and **Singapore**.

Furthermore, significant progress has been achieved with **Australia and the U.S.** Regarding Australia, the introduction of the eVisitors system has brought about equal treatment of the citizens of all Member States and Schengen associated countries. The Commission will be in a position to determine whether full visa reciprocity has been achieved only once the assessment of the eVisitors system has been completed.

As regards the U.S, seven additional Member States have joined the VWP. Nevertheless, the situation is still far from satisfactory and the Commission will pursue discussions with the U.S. in order to secure early inclusion of the remaining five Member States in the VWP. With regard to the U.S. ESTA, the **Commission deplores the passage of legislation introducing a fee for the use of the ESTA for the benefit of the U.S. travel and tourism industry**. This tax on foreigners would be a retrograde and counter-productive step and could lead to the determination that the ESTA is tantamount to the Schengen visa application process with very serious potential consequences for U.S. travellers to Europe.

With regard to **Brunei Darussalam**, the Commission will closely follow the internal discussions in Brunei Darussalam and continue consultations with Brunei Darussalam authorities in order to achieve a 90 day visa waiver for all Member States.

Regarding Brazil, the **Commission welcomes the agreement reached on the draft text of the short-stay visa waiver agreement** for holders of ordinary passports and expects to achieve an agreement soon on the short-stay visa waiver agreement for holders of diplomatic, service or official passports. The Commission hopes that Brazil will be able to ratify both agreements through their internal procedures as soon as possible.

Regarding **Canada**, the Commission will continue to pursue discussions with Canada in order to achieve progress towards the lifting of the visa requirements for Bulgaria and Romania.

In accordance with Article 1(5) of Council Regulation (EC) No 539/2001, as amended by Council Regulation (EC) No 851/2005, the Commission will again report to the Council and the European Parliament no later than **30 June 2010**.